STATE OF VERMONT

HUMAN SERVICES BOARD

In re   )   Fair Hearing No. 18,028
)
Appeal of   )

INTRODUCTION

The petitioner appeals the decision by the Department of
Prevention, Assistance, Transition, and Health Access (PATH)
terminating her Food Stamp benefits. The issues are whether
the petitioner's ex-husband must be included as a member of
the petitioner's Food Stamp household and whether the
household's gross income exceeds the program maximum. The
facts are not in dispute.

FINDINGS OF FACT

1. Until October 2002 the petitioner, who lives with her
three children, received Food Stamps for a household of four
persons. The household's income consisted of the petitioner's
wages from employment, Social Security benefits received by
her children, and child support paid by her ex-husband.

2. At a periodic review of the household's eligibility
on August 29, 2002 the petitioner reported that her ex-husband
had moved into the home as a "boarder". The petitioner
maintains that she "rents the couch" in the living room for
him to sleep on and charges him $242 a month in "rent".
According to the petitioner he does not eat with the family or
otherwise participate in the family's affairs, even though he

is the children's father.

    3.   The petitioner does not dispute that her home is
presently her ex-husband's primary place of residence.

    4.   The petitioner does not dispute that if her ex-
husband's income is considered, her household's gross income
is in excess of the maximum gross income limitation of $2,295
a month for a household of five. (See infra.)

    5.   On September 17, 2002 the Department notified the
petitioner that she would not be eligible for any Food Stamps
as of October 1, 2002 based on this increase in countable
household income. The petitioner maintains that neither her
ex-husband's income nor the Social Security payments to her
children should be counted in determining her and her
children's eligibility for Food Stamps.

                              ORDER

    The decision of the Department is affirmed.

                             REASONS

    In determining eligibility for Food Stamps the
regulations include in the definition of a "household"
individuals who "live together and customarily purchase food
and prepare meals together." FSM § 273.1(a)(1). The
regulations further require: "The following individuals living
with others or groups of individuals living together shall be
considered as customarily purchasing food and preparing meals

together, even if they do not do so: . . . Parent[s] living
with their natural, adopted, or step-children twenty-one years
of age or younger." FSM § 273.1(a)(2)(c). The regulations
make no exception for parents of children who are living with
their children but who are divorced from each other. In this
case it is clear that both the petitioner and the petitioner's
ex-husband are "living with" their children within the meaning
of the above regulations. Thus, the Department was correct to
include the petitioner's ex-husband as a member of the
household for purposes of Food Stamps and to consider his
income in determining the household's eligibility for that
program.

The Food Stamp regulations further provide that all
earned and unearned income, including Social Security benefits
received by any member of the household, is countable as gross
income. F.S.M. § 273.9(b). That total gross income is then
subjected to an initial gross income test (presently 130
percent of federal income poverty levels) to determine
eligibility. F.S.M. § 273.9(a). No deductions are allowed at
this stage of the eligibility process. (Several deductions
are allowed for those households that pass the gross income
test.) The gross income eligibility standard at present is
$2,295 for a household of five. Procedures Manual § P-2590 C.

As noted above, as of the date of the Department's
actions in this matter, the petitioner's household's gross
income was in excess of $2,295 a month. Inasmuch as the

Department's action terminating her Food Stamp benefits was in accord with the regulations, the Board is bound to uphold it. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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